UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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JANE DOE,

Plaintiff,

v.

COUNTY OF SAN JOAQUIN, SAN JOAQUIN SHERIFF'S OFFICE, MICHAEL REYNOLDS (in his individual and official capacities), and PATRICK WITHROW (in his official capacity),

Defendants.

No. 2:24-cv-00899 WBS CKD

ORDER RE: MOTION TO DISMISS

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Plaintiff Jane Doe brings ten federal and state law claims against San Joaquin County; the San Joaquin Sheriff's Office; Deputy Sheriff Michael Reynolds, in both his personal and official capacity; and Sheriff Patrick Withrow in his official capacity. (First Am. Compl. ("FAC") (Docket No. 6.) These claims center on allegations of serial sexual assault by Reynolds. Defendants now move for partial dismissal.

I. Facts

As required on a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) the court assumes the following allegations to be true and draws all reasonable factual inferences in plaintiff's favor.

While employed by the San Joaquin County Sheriff's Office, plaintiff endured persistent sexual harassment and assault by her supervisor, Sergeant Michael Reynolds. (FAC ¶¶ 1, 6, 10-53.) Plaintiff began working for the County in April 2019 as an office assistant in the communications department. (Id. ¶ 13.) In July 2021, she transferred to a crime analyst position, placing her under Reynolds's supervisory authority. (Id. ¶¶ 19-21.)

Reynolds allegedly began engaging in a disturbing pattern of sexually harassing behavior, including sending plaintiff videos of himself masturbating and images of his erect penis while in uniform and in a Sheriff's Office vehicle (id. ¶ 24), physically accosting her in elevators (id. ¶¶ 37-38), and ultimately sexually assaulting her on multiple occasions (id. ¶¶ 47-48.) Plaintiff alleges that Reynolds threatened her with termination, reputational ruin, and violence if she reported his conduct. (Id. ¶¶ 38, 41-42.)

Plaintiff further alleges that Reynolds's conduct was enabled by the County's inadequate policies and practices regarding sexual harassment prevention and response. (Id. ¶¶ 1, 68-70, 98-101.) She also alleges that the Sheriff's Office failed to take disciplinary action against Reynolds or subject him to criminal investigation after learning of his conduct (id.

¶¶ 62-64), and that the office has a practice of requiring employees to follow the chain of command when reporting harassment (id. ¶ 60).

At all relevant times, Withrow was the Sheriff of San Joaquin Sheriff's Office. (Id. ¶ 5.) In that capacity, he was responsible for setting and enforcing policies regarding personnel under his supervision, including Reynolds. (Id.)

Plaintiff remains employed by the County but is on disability/injury leave due to the allegations in the complaint. (Id. ¶ 73.)

II. Legal Standard

Federal Rule of Civil Procedure 12(b)(6) permits dismissal when the plaintiff's complaint fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). The court must determine whether, accepting the complaint's allegations as true and drawing all reasonable inferences in the plaintiff's favor, the complaint has alleged "sufficient facts . . . to support a cognizable legal theory." Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001). The claim must be "plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007).

The court "need not accept as true legal conclusions or '[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.'" Whitaker v. Tesla Motors, Inc., 985 F.3d 1173, 1176 (9th Cir. 2021) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)).

III. Discussion

Defendants move to dismiss plaintiff's "Monell claims," arguing that plaintiff fails to establish municipal liability for

San Joaquin County or the Sheriff's Office. See Monell v. Dep't of Soc. Servs. of City of New York, 436 U.S. 658 (1978) (setting forth municipal liability standard for claims asserted under 42 U.S.C. § 1983). (See generally Mot.) The court construes this as a motion to dismiss plaintiff's two § 1983 claims as asserted against San Joaquin County and the Sheriff's Office.

A. Section 1983 Claim Against Reynolds (Claim 1)

Plaintiff's first claim asserts a § 1983 violation against Reynolds in both his personal and official capacity. (FAC ¶¶ 81-92.) However, as plaintiff seeks only damages against Reynolds (id. ¶¶ 91-92), the court construes this as a claim against Reynolds in his personal capacity only. See Mitchell v. Washington, 818 F.3d 436, 442 (9th Cir. 2016) ("when a plaintiff sues a defendant for damages, there is a presumption that he is seeking damages against the defendant in his personal capacity").

Defendants' motion to dismiss this claim based on Monell is accordingly misplaced. In a personal-capacity suit, the plaintiff seeks to impose personal liability on a government official for actions taken under color of state law. Kentucky v. Graham, 473 U.S. 159, 165 (1985). Monell liability, on the other hand, applies to municipalities and local governing bodies, not to individuals sued in their personal capacity. See Monell, 436 U.S. at 690-91. Therefore, the Monell requirements of an official policy or custom do not apply to plaintiff's claim asserted against Reynolds in his personal capacity.

Accordingly, the first claim, considered as a claim against Reynolds in his personal capacity only, will not be dismissed on Monell grounds.

B. Section 1983 Claim Against Withrow (Claim 2)

Plaintiff's second claim asserts a § 1983 violation against Withrow in his official capacity, seeking only injunctive relief. (FAC ¶¶ 93-103.) This claim is properly analyzed under Monell, as official-capacity suits "generally represent only another way of pleading an action against an entity of which an officer is an agent." Monell, 436 U.S. at 690 n.55.

Under Monell, plaintiff must demonstrate that a policy or custom of the governmental entity was the moving force behind the constitutional violation. See Hafer v. Melo, 502 U.S. 21, 25 (1991); Graham, 473 U.S. at 166. Here, plaintiff's allegations implicate two related theories of Monell liability: (1) failure to train, and (2) a custom of failing to punish sexual offenders. (FAC ¶¶ 98-99.)

1. Failure to Train

"A municipality's culpability for a deprivation of rights is at its most tenuous where a claim turns on a failure to train." Connick v. Thompson, 563 U.S. 51, 61 (2011) (citation omitted). Such a claim requires showing that (1) the training program was inadequate "in relation to the tasks the particular officers must perform"; (2) city officials were deliberately indifferent "to the rights of persons with whom the [local officials] come into contact"[1]; and (3) the inadequacy of the

[1] See also Connick, 563 U.S. at 61 ("To satisfy the statute, a municipality's failure to train its employees in a relevant respect must amount to 'deliberate indifference to the rights of persons with whom the [untrained employees] come into contact.' [] Only then 'can such a shortcoming be properly thought of as a city 'policy or custom' that is actionable under

training "actually caused" the constitutional deprivation at issue. Merritt v. County of Los Angeles, 875 F.2d 765, 770 (9th Cir. 1989) (internal citations omitted).

Plaintiff's claim, insofar as it is premised on a failure to train theory, is deficient for at least two reasons. First, nothing in the complaint suggests that the need to change or implement additional sexual harassment training was "so obvious, and the inadequacy so likely to result in the violation of constitutional rights," that Withrow's inaction as to training amounted to an affirmative policy choice that expressed deliberate indifference to plaintiff's constitutional rights. City of Canton v. Harris, 489 U.S. 378, 390 (1989). While plaintiff alleges a general history of sexual misconduct towards women in the Sheriff's Office (FAC ¶ 67) and past complaints about Reynolds from other employees (id. ¶ 68), this alone is insufficient to show that the municipality was on notice of a need for more or different personnel training.[2] To hold otherwise would risk letting "municipal liability under § 1983 collapse into respondeat superior." Bd. of Cty. Comm'rs of Bryan Cnty., Okl. v. Brown, 520 U.S. 397, 410 (1997).

Second, plaintiff fails to allege sufficient facts suggesting that inadequacy of the training actually caused

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§ 1983.'" (quoting City of Canton v. Harris, 489 U.S. 378, 388 (1989))).

[2] See also Connick, 563 U.S. at 62 ("A pattern of similar constitutional violations by untrained employees is 'ordinarily necessary' to demonstrate deliberate indifference for purposes of failure to train" (citing Bd. of Cnty. Comm'rs of Bryan Cnty., Okl. v. Brown, 520 U.S. 397, 409 (1997))).

Reynolds's conduct. Rather, plaintiff's allegations suggest that Reynolds acted with a clear disregard for consequences that no training would remediate, as indicated by his alleged comments that plaintiff (a "'new civilian girl'"), not Reynolds (a "'seasoned Sergeant'"), would face adverse consequences were she to report Reynolds.[3] (FAC ¶ 41.)

2. Custom of Failing to Discipline

However, plaintiff's allegations sufficiently allege a Monell claim under a customary failure to discipline theory. Under this theory, plaintiff must allege a practice that is so "persistent and widespread" that it constitutes a "permanent and well settled city policy." Trevino v. Gates, 99 F.3d 911, 918 (9th Cir. 1996) (citing Monell, 436 U.S. at 691).

Plaintiff makes several allegations that, taken together, plausibly suggest such a custom. First, she alleges that the Sheriff's Office failed to take any disciplinary action against Reynolds or refer him to criminal investigation after learning of his conduct. (FAC ¶¶ 62-64.) See Hunter v. County of Sacramento, 652 F.3d 1225, 1233 (9th Cir. 2011) (custom can be inferred from evidence of repeated constitutional violations for which the errant municipal officers were not discharged or

[3] See also Flores v. Cnty. of Los Angeles, 758 F.3d 1154, 1160 (9th Cir. 2014) ("There is, however, every reason to assume that police academy applicants are familiar with the criminal prohibition on sexual assault, as everyone is presumed to know the law. There is no basis from which to conclude that the unconstitutional consequences of failing to train police officers not to commit sexual assault are so patently obvious that the County or Baca were deliberately indifferent" (citing United States v. Budd, 144 U.S. 154, 163 (1892))).

reprimanded).

Second, plaintiff alleges that Reynolds is "not the only deputy in the Office known to have accosted women on the job in recent memory" (FAC ¶ 1), that there is a general history of sexual misconduct toward women by County personnel (id. ¶ 67), and that "gender discrimination and accusations of cover-ups to protect peace officers from accusations of wrongdoing has led to public departures by prominent staff" (id. ¶ 1). Specifically, she points to the resignations of two medical examiners who protested the office's failure to hold law enforcement accountable for misconduct. (Id. ¶¶ 68, 100.) These resignations, particularly given the alleged reasons behind them, lend credence to the existence of a widespread custom of failing to punish misconduct.

Third, Reynolds's own alleged comments to plaintiff about "officers stick[ing] together" (id. ¶ 41), and plaintiff's further allegations that women working for the Sheriff's Office fear reporting incidents of sexual misconduct against police officers because of a culture of fear and intimidation (id. ¶¶ 99-100), further support an inference of a well-settled custom of protecting wrongdoers within the department.

At the pleading stage, plaintiff need not prove the existence of such a custom, but merely allege sufficient facts to make the claim plausible. See Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011); see also AE ex rel. Hernandez v. County of Tulare, 666 F.3d 631, 637 (9th Cir. 2012) (no heightened pleading standard for Monell claims). Taking all of plaintiff's allegations as true and drawing all reasonable inferences in her

favor, as the court must at this stage, plaintiff has plausibly alleged a custom of failing to punish sexual offenders within the Sheriff's Office. While further factual development may be necessary to ultimately prove this claim, plaintiff's allegations are sufficient to survive a motion to dismiss. Accordingly, the court will not dismiss this claim.

IT IS THEREFORE ORDERED that defendants' motion to dismiss (Docket No. 12) be, and the same hereby is, DENIED.

Dated: August 6, 2024

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE